

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
VICTOR HOTH0 and AYAKO MITSUI,	:	<b>ANSWER</b>
individually and as parents and natural	:	
guardians of infant, ALYN HOTH0,	:	05 CV 2609
	:	
Plaintiffs,	:	Defendants demand trial by jury
	:	
v.	:	
	:	
EDWARD F. ROSSI, M.D., PEDIATRICS EAST	:	
OF NEW YORK, P.C. and ST. VINCENT'S	:	
HOSPITAL, MANHATTAN,	:	
	:	
Defendants.	:	
	:	
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Defendants, EDWARD F. ROSSI, M.D. and PEDIATRICS EAST OF NEW YORK, P.C., by their attorneys, AARONSON RAPPAPORT FEINSTEIN & DEUTSCH, LLP, as and for their answer to plaintiffs' complaint, respectfully shows to this court and alleges upon information and belief:

1. Denies the knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraphs "1", "2", "3", "8", "9" and "10".
2. Denies the allegations contained in paragraphs "4", "5" and "6" except admits that defendant was and still is a physician duly licensed to practice medicine in the State of New York and a member of defendant PEDIATRICS EAST OF NEW YORK, P.C., a duly organized professional corporation in the State of New York and defendant EDWARD A. ROSSI, M.D. maintains an office for the practice of his profession at 157

East 81<sup>st</sup> Street, New York, New York, and otherwise begs leave to refer all questions of law to the court.

3. Denies the allegations contained in paragraph "7".

#### **JURISDICTION AND VENUE**

4. Denies the allegations contained in paragraph "11".

5. Denies the knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraphs "12" and "13" and otherwise begs leave to refer all questions of law to the court.

#### **FACTUAL BACKGROUND**

6. Denies the knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraphs "14", "15", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28" and "29".

7. Denies the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "16" except admits that said defendant was consulted with regard to the infant plaintiff's health and rendered certain professional services to and for said plaintiff.

8. Denies the allegations contained in paragraphs "30" and "31".

#### **COUNT ONE**

9. In response to paragraph "32", repeats each admission or denial contained in paragraphs "1" through "31" herein as though fully set forth hereat.

10. Denies the allegations contained in paragraphs "33", "34" and "35".

**COUNT TWO**

11. In response to paragraph "36", repeats each admission or denial contained in paragraphs "1" through "35" herein as though fully set forth hereat.

12. Denies the allegations contained in paragraphs "37", "38" and "39".

**COUNT THREE**

13. In response to paragraph "40", repeats each admission or denial contained in paragraphs "1" through "39" herein as though fully set forth hereat.

14. Denies the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "41" and "42".

**COUNT FOUR**

15. Denies the allegations contained in paragraphs "43" and "44".

**COUNT FIVE**

16. In response to paragraph "45", repeats each admission or denial contained in paragraphs "1" through "44" herein as though fully set forth hereat

17. Denies the allegations contained in paragraph "46".

**COUNT SIX**

18. In response to paragraph "47", repeats each admission or denial contained in paragraphs "1" through "46" herein as though fully set forth hereat

19. Denies the allegations contained in paragraph "48".

**AS AND FOR THE FIRST AFFIRMATIVE DEFENSE**

20. Plaintiffs' cause of action, if any, are barred pursuant to CPLR 3012-a.

**AS AND FOR THE FIRST AFFIRMATIVE DEFENSE**

21. Plaintiffs' fourth and sixth causes of action, if any, are time barred in whole or in part pursuant to CPLR 214-a.

**AS AND FOR THE THIRD AFFIRMATIVE DEFENSE**

22. That the injuries claimed by plaintiffs in the complaint were cause in whole or in part, by the culpable conduct of the plaintiffs which either bars the claims completely or else diminishes the damages by the proportion that such culpable conduct o

WHEREFORE, defendants, EDWARD F. ROSSI, M.D. and PEDIATRICS EAST OF NEW YORK, P.C., demand judgment dismissing the Complaint, together with the costs and disbursements of the within action.

Dated: New York, New York  
March 28, 2005

Yours, etc.,



BY: STEVEN C. MANDELL (0583)  
AARONSON RAPPAPORT FEINSTEIN  
& DEUTSCH, LLP

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v.

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OF NEW YORK, P.C. and ST. VINCENT'S :  
HOSPITAL, MANHATTAN, :

Defendants. :  
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**DISCLOSURE STATEMENT  
PURSUANT TO RULE 7.1 OF THE  
GENERAL RULES OF THE  
SOUTHERN DISTRICT**

05 CV 2609

SIR/MADAM:

Pursuant to Rule 7.1 of the local rules of the U.S. District Court for the Southern and Eastern Districts of New York and to enable judges and magistrate judges of the court to evaluate possible disqualification or recusal, the undersigned counsel for EDWARD F. ROSSI, M.D., PEDIATRICS EAST OF NEW YORK, P.C., (private non-governmental parties) certifies that there are no corporate parents, subsidiaries, or affiliates of said parties which are publicly held.

Dated: New York, New York  
March 28, 2005

Yours, etc.,

  
BY: STEVEN C. MANDELL (0583)  
AARONSON RAPPAPORT FEINSTEIN

& DEUTSCH, LLP  
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